NSBA
National Small Business Association

Issue Brief

Expiring Tax Provisions

Problem:

With the Tax Cuts and Jobs Act of 2017 (TCJA), Congress chose to make many of the individual provisions temporary to limit the revenue cost of the TCJA to a level consistent with the overall constraint on the 10-year revenue loss in the Congressional Budget Resolution. Moreover, to comply with Senate budget rules under the process used to pass the tax act, there can be no increase in the federal budget deficit after the 10th year.

- When the TCJA became effective on Jan. 1, 2018, the major elements of bill included reducing tax rates for businesses and individuals, and introduced the new qualified business income 20 percent deduction, making it more beneficial for pass-through entities. It also limited the deduction for state and local income taxes and property taxes at the individual level, which created many planning opportunities for businesses in what's often called the pass-through entity election. The law also reduced a lot of the alternative minimum tax provisions, not only at the individual level, but it eliminated it completely for corporations.
- However, as of Dec. 31, 2025, most of those provisions that impact individuals will expire. Expiring provisions include the individual income tax rate reductions, standard deduction increases, deduction limitations and repeal, increased AMT exemptions, pass-through business income deduction, and estate/gift/GST exclusion/exemption increases. Individual and estate and gift provisions that expire after 2025 will revert to the rules that applied in 2017, absent additional legislation.
- A January 2022 report by the Joint Committee on Taxation identified 40 federal tax provisions that expired at the end of 2021 and another 45 that will expire over the next four years. Along with the 20 percent qualified business income deduction, other items that will expire include the new markets tax credit (NMTC) and numerous clean energy tax incentives, individual income tax brackets, Affordable Care Act insurance assistance, and bonus depreciation, just to name a few.

Solution:

For business leaders, the question is when the volume of expired and expiring provisions reaches a critical mass that forces action by Congress. The number of moving pieces makes the timeline unpredictable and unstable for business owners. Lawmakers MUST act to ensure parity in tax rates between the smallest businesses and global corporations.

- As the tax reform debate heightens, NSBA believes it is imperative that the U.S. moves toward a simpler, fairer tax system that does not attempt to only tweak one piece of the puzzle but instead is a permanent solution.
- The law sunsets the pass-through deduction after the year 2025, resulting in significant tax hikes on pass-through businesses. NSBA supports making the pass-through business deduction permanent.
- NSBA has long supported tax stability, predictability, and permanency as they are critically important in the effort to help grow the economy and help improve the fiscal situation.